IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

WP(C).No. 6045 of 2006(T)

PETITIONER:

VILASINI THAMPI, W/O.K.G.THAMPI,
AGED 58 YEARS, RESIDING AT AJANTHA HOUSE,
KURUSUPALLY ROAD, KOCHI-15.

BY ADV. SRI.P.V.SURENDRANATH
SRI.V.A.ABDUL JALEEL

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY TO FINANCE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. SPECIAL DEPUTY TAHSILDAR(R.R)
KSFE LIMITED, ERNAKULAM.

3. KERALA STATE FINANCIAL ENTERPRISES LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
CORPORATE OFFICE, BHADRATHAN, MUSEUM ROAD,
TRICHUR-680 020.

4. MANAGER,
KERALA STATE FINANCIAL ENTERPRISES LTD.,
BRANCH OFFICE, KACHERIPADI, KOCHI-18.

R1 AND R2 BY G.P. SRI. BASANT BALAJI
R3 AND R4 BY ADV. SRI.M.L.SAJEEVAN, SC, KSFE LTD.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE NOTICE DATED 22.8.2005 ISSUED BY THE 2ND RESPONDENT.

EXT.P2 TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE HON'BLE MINISTER OF FINANCE ON 30.8.2005

EXT.P3 TRUE COPY OF THE LETTER DATED 7.11.2005 ISSUED BY THE BUSINESS MANAGER OF THE THIRD RESPONDENT.

RESPONDENTS' EXHIBITS: NIL

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 6045 OF 2007

Dated this the 14th day of June, 2007

JUDGMENT

Heard counsel for the petitioner and standing counsel for KSFE. Petitioner joined a chitty with sala of Rs. 2 lakhs in April, 1999. Even though five subscriptions were paid, which would have been around Rs. 20,000/-, petitioner could not remit further subscriptions and discontinued from the chitty. Since petitioner continuously defaulted payment of subscription petitioner should have been removed from the rolls. However, respondents' case is that based on a proxy given by the petitioner, the Manager of KSFE bid the chitty in favour of the petitioner. However, it is conceded that no payment of prize money was made to the petitioner. Years thereafter revenue recovery proceedings were initiated for Rs. 32,358/- with interest. Petitioner's case is that petitioner is the real loser in the deal in as much as the subscription amount paid by the petitioner eight years' back was forfeited by the KSFE. Even when chitty was prized in favour of the petitioner, petitioner was not given payment by the KSFE. On the

other hand, the company kept the amount with them. Standing counsel submitted that amounts were adjusted towards dues. A subscriber joins a chitty for his or her own benefit and not for the benefit of the company alone. In this case, the company appears to have appropriated the subscriptions and enjoyed the benefit of prize money. In the circumstances, I allow the W.P. and cancel the demand against the petitioner.

(C.N.RAMACHANDRAN NAIR)
Judge